NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

July 16, 2007

2:15 p.m.

REGULAR SESSION

SENATOR GEORGE D. MAZIARZ, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MAZIARZ: The Senate will come to order.

And I ask that everyone present please rise and repeat with me the Pledge of Allegiance.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

ACTING PRESIDENT MAZIARZ: The invocation today will be given by the Reverend Peter G. Young.

Father Young.

REVEREND YOUNG: Thank you, Senator.

Let us pray.

As we look out the window today and see Your beauty displayed for the crowds at the plaza bathing in the sunshine, we would enjoy that same time of relaxation, but state responsibilities have called the Senate to fulfill their oath of office.

Because of the dedication of our Senators, we call You, O God, to bless them with strength and good health so that they can provide needed leadership to our New York

State citizens.

May their legislative session today promote continued progressive agendas that will improve the quality of life for all of our residents in New York State.

We ask You this now through God.

Amen.

ACTING PRESIDENT MAZIARZ: The reading of the Journal.

THE SECRETARY: In Senate, Sunday, July 15, the Senate met pursuant to adjournment. The Journal of Saturday, July 14, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT MAZIARZ: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, on behalf of Senator Klein, I move the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Print Number 3126B.

ACTING PRESIDENT MAZIARZ: So ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, on behalf of Senator Young, I wish to call up Senate Print Number 5676A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 1672, by Senator Young, Senate Print 5676A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MAZIARZ: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT MAZIARZ: Call

the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MAZIARZ: The bill is restored to its place on the Third Reading Calendar.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, I now move to recommit the bill to the Committee on Rules.

ACTING PRESIDENT MAZIARZ: So ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: On behalf of Senator Winner, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Print Number 6375.

ACTING PRESIDENT MAZIARZ: So ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: On behalf of Senator Golden, I wish to call up Senate Print Number 1288A, recalled from the Assembly,

which is now at the desk.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 1835, by Senator Golden, Senate Print 1288A, an act to amend the Social Services Law.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed and ask that the bill will be restored to the order of third reading.

ACTING PRESIDENT MAZIARZ: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MAZIARZ: The bill is restored to its place on the Third Reading Calendar.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT MAZIARZ: The amendments are received.

SENATOR FUSCHILLO: Mr. President, I now move to discharge, from the Committee on Rules, Assembly Print Number 3300A and substitute it for the identical

Senate bill.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

SENATOR FUSCHILLO: I now move that the substituted Assembly bill have its third reading at this time.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 1835, substituted earlier by Member of the Assembly Millman, Assembly Print Number 3300A, an act to amend the Social Services Law and the Public Authorities Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr.

President, on behalf of Senator Robach, I wish to call up Senate Print Number 6347, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 2068, by Senator Robach, Senate Print 6347, an act establishing the City of Rochester and the Board of Education.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed and ask that the bill be restored to the order of third reading.

ACTING PRESIDENT MAZIARZ: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MAZIARZ: The bill is restored to its place on the Third Reading Calendar.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT MAZIARZ: The amendments are received.

SENATOR FUSCHILLO: Mr.

President, I now move to discharge, from the Committee on Rules, Assembly Print Number 9227 and substitute it for the identical Senate bill.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

SENATOR FUSCHILLO: I now move that the substituted Assembly bill have its third reading at this time.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 2068, substituted earlier by Member of the Assembly Gantt, Assembly Print Number 9227, an act establishing the City of Rochester and the Board of Education.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MAZIARZ: The

bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, on behalf of Senator Wright, I wish to call up Senate Print Number 4261A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 1844, by Senator Wright, Senate Print 4261A, an act to amend Chapter 519 of the Laws of 1999.

ACTING PRESIDENT MAZIARZ: Senator Fuschillo.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed and ask that the bill be restored to the Third Reading Calendar.

ACTING PRESIDENT MAZIARZ: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MAZIARZ: The bill is restored to its place on the Third Reading Calendar.

Senator Fuschillo.

SENATOR FUSCHILLO: I now move to discharge, from the Committee on Rules, Assembly Print Number 7823A and substitute it for the identical Senate bill.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

SENATOR FUSCHILLO: The Senate bill on first passage was voted unanimously. I now move that the substituted Assembly bill have its third reading at this time.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 1844, substituted earlier by Member of the Assembly Schimminger, Assembly Print Number 7823A, an act to amend Chapter 519 of the Laws of 1999 amending the Alcoholic Beverage Control Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Finance Committee in the Majority Conference Room.

The Senate will stand at ease.

ACTING PRESIDENT MAZIARZ: There will be an immediate meeting of the Senate Finance Committee in the Majority Conference Room.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 2:21 p.m.)

(Whereupon, the Senate reconvened at 2:36 p.m.)

ACTING PRESIDENT SEWARD: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to the order of motions and resolutions.

With the consent of the Minority,

Senator Little has a resolution, 3141. If we could have it read at this time, just the title.

ACTING PRESIDENT SEWARD: The Secretary will read.

THE SECRETARY: By Senator Little, Legislative Resolution Number 3141, congratulating Dr. Dan O'Keeffe upon the occasion of capturing a gold medal in tennis doubles at the 2007 National Senior Olympics.

ACTING PRESIDENT SEWARD: Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

Frequently we are joined in the gallery by some great athletes. We've had teams who have won state championships, we have had college teams that have won NCAA championships, and we've all been very proud of them.

But I'm very proud today to have a constituent and friend here today with us, Dr. Dan O'Keeffe.

Dr. O'Keeffe, originally from North Creek, in Warren County, practiced medicine --

OB/GYN -- in Glens Falls for a number of years. And upon retirement -- actually, before he retired, he took up tennis and has been quite the tennis player.

For 16 years, Dr. Dan O'Keeffe would travel to Texas with the Australian great, Roy Emerson, and he spearheaded many tennis tournaments in Glens Falls that were held at the Glens Falls Tennis and Swim Club.

But recently Dr. Dan O'Keeffe has participated in the National Senior Olympics. Last year he won the New York State Senior Olympic Title, and that qualified him to attend the National Olympics that were held this year, on July 3rd, in Louisville, Kentucky.

Dr. Dan and his partner, Ed Gall, defeated a team from Kentucky in the semifinals and a team from Texas in the finals, winning in 6-3, 6-4.

But what's even more important than winning the gold medal -- although that is very important -- is that we have a person whose character and abilities and achievements have really been recognized at this level.

And I also would add that he won in the 85-to-90-year-old class, which I think is pretty spectacular.

He serves as a wonderful example for seniors and for all people in New York State that when we retire, an active life, with a little competition thrown in for spice, can really serve us well and help us to be better people, better citizens, and certainly have a better quality of life.

So it's with a great deal of pride that I recognize Dr. O'Keeffe today, who's here with a friend, with his daughter-in-law and with his grandson, who is following in his grandfather's footsteps, in that he's going to participate in the Iron Man competition this weekend.

But we're all very proud of Dr. Dan and the wonderful example that he sets. He's been a great community member, a great professional person, having been down here for many years with the New York State Medical Society, but here today to be honored for this achievement.

And I would ask you all to join me

in recognizing Dr. Dan O'Keeffe, the winner of the 2007 National Senior Olympics gold medal for the 85-to-90-year class.

Thank you.

ACTING PRESIDENT SEWARD: Thank you.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

I also rise to salute Dr. O'Keeffe, who comes from one of the most remarkable Irish families. They're full of doctors, to say the least. They are a remarkable family, having come from North Creek. I was just north of there, in Indian Lake, when I was growing up. And I've read his book -- he's also an author -- talking about a little bit of heaven and so forth, right near -- I've read the book.

He was a skier and an athlete even as a young man. And I've seen him in his book with pictures of a lot of young ladies and so forth. So he had a lot of attributes that were not only athletic but social.

Dr. O'Keeffe is a remarkable man

and comes from a remarkable family. And I believe he was president of the New York State Medical Society and has represented the medical profession in Glens Falls and that area in an outstanding way.

I also hear from him quite frequently, as he spends his winters in Sarasota, Florida.

And, Dr. O'Keeffe, we're so proud of you. I just can't believe that at your young age you're participating in the Olympics and winning gold medals and so forth. You O'Keeffes never cease to amaze. And it's remarkable what you can accomplish.

And we're very, very proud of you, and I'm very pleased to rise in support of Senator Little's resolution. Congratulations and best wishes to you and your remarkable family.

ACTING PRESIDENT SEWARD: The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SEWARD: Opposed, nay.

(No response.)

ACTING PRESIDENT SEWARD: The resolution is adopted.

And on behalf of Senator Little and all members of the State Senate, I'm delighted to congratulate Dr. O'Keeffe on this very important honor.

(Applause.)

ACTING PRESIDENT SEWARD: Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

And if we could stand at ease.

ACTING PRESIDENT SEWARD: There will be an immediate meeting of the Rules Committee in the Majority Conference Room, Room 332.

And the Senate stands at ease.

(Whereupon, the Senate stood at ease at 2:43 p.m.)

(Whereupon, the Senate reconvened at 3:05 p.m.)

ACTING PRESIDENT WRIGHT: Senator

Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees and take up the Finance Committee report at this time.

ACTING PRESIDENT WRIGHT: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator O. Johnson, from the Committee on Finance, reports the following nominations.

As a member of the New York State Olympic Regional Development Authority, Joseph J. Martens, of Glenmont.

As a banking member of the State Banking Board, Robert M. Fisher, of Owego.

As a member of the Palisades Interstate Park Commission, Howard G. Seitz, of Rye.

As members of the Advisory Council on Alcoholism and Substance Abuse Services, Frederick K. Reich, of Albany, and John Tavolacci, of East Williston.

As members of the Advisory Council to the Commission on Quality of Care and

Advocacy for Persons With Disabilities, Mary Hope Derby, of Geneseo; Loretta Goff, of Westbury; and Richard P. Johnson, of Schenectady.

As a member of the Council on Human Blood and Transfusion Services, Kathleen M. Grima, M.D., of Rye.

As a member of the Mental Health Services Council, John Kastan, Ph.D., of New York City.

As a member of the Board of Visitors of the New York State Home for Veterans and Their Dependents at Batavia, Barbara M. Green, of East Rochester.

As a member of the Board of Visitors of the Bronx Psychiatric Center, Yvonne E. Chappell, of the Bronx.

And as a member of the Western New York Children's Psychiatric Center, Thomas M. Dubay, of Springville.

ACTING PRESIDENT WRIGHT: Senator Johnson.

SENATOR OWEN JOHNSON: Move the nominations.

ACTING PRESIDENT WRIGHT: The

question is on the nominees as read by the Secretary. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WRIGHT: Opposed, nay.

(No response.)

ACTING PRESIDENT WRIGHT: The nominees are hereby confirmed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could now go to the Rules report and have it read at this time.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills.

Senate bills restored:

Senate Print 2887, by Senator Maziarz, an act to amend the Labor Law;

4025A, by Senator DeFrancisco, an act to amend the Family Court Act;

5506A, by Senator Flanagan, an act to amend the Labor Law;

6378, by Senator Alesi, an act in relation to redistributing;

6384, by Senator Golden, an act to amend the Real Property Tax Law;

And Senate Print 6386, by Senator Padavan, an act to amend the General City Law.

Senate bills reported:

Senate Print 5430A, by Senator Maziarz, an act to amend the General Municipal Law;

5735A, by Senator C. Johnson, an act in relation to authorizing;

6095A, by Senator Maltese, an act to amend the Election Law;

6393, by Senator Padavan, an act to amend the Public Authorities Law;

6400, by the Senate Committee on Rules, an act to amend the Real Property Tax Law;

6406, by Senator Skelos, an act to amend the Executive Law;

6414, by Senator Golden, an act to amend the Penal Law;

6417, by Senator Bruno, an act to amend the Real Property Tax Law;

6420, by the Senate Committee on Rules, an act to authorize the City of New York;

6422, by Senator Nozzolio, an act to amend the Correction Law;

And Senate Print 6423, by Senator Nozzolio, an act to amend the Correction Law.

All bills ordered direct to third reading.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: Move to accept the report of the Rules Committee.

ACTING PRESIDENT WRIGHT: All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WRIGHT: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT WRIGHT: The report is accepted.

SENATOR SKELOS: Mr. President, would you please recognize Senator Dilan.

ACTING PRESIDENT WRIGHT: Senator

Dilan.

SENATOR DILAN: Mr. President, at this time we'd like to call for a Minority conference in Room 315.

ACTING PRESIDENT WRIGHT: There will be an immediate meeting of the Minority conference in Room 315.

SENATOR SKELOS: And if we could stand at ease.

ACTING PRESIDENT WRIGHT: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:10 p.m.)

(Whereupon, the Senate reconvened at 3:48 p.m.)

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could now take up Senate Calendar Number 66, noncontroversial.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 180, Senator Maziarz moves to discharge, from the Committee on Rules,

Assembly Bill Number 6209 and substitute it for the identical Senate Bill Number 2887, Third Reading Calendar 180.

ACTING PRESIDENT WRIGHT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 180, by Member of the Assembly John, Assembly Print Number 6209, an act to amend the Labor Law.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 498, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 6847B and substitute it for the identical Senate Bill Number 4025A,

Third Reading Calendar 498.

ACTING PRESIDENT WRIGHT: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 498, by Member of the Assembly Weinstein, Assembly Print Number 6847B, an act to amend the Family Court Act.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1854, Senator Flanagan moves to discharge, from the Committee on Rules, Assembly Bill Number 8582A and substitute it for the identical Senate Bill Number 5506A, Third Reading Calendar 1854.

ACTING PRESIDENT WRIGHT: The

substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1854, by Member of the Assembly Alessi, Assembly Print Number 8582A, an act to amend the Labor Law and the General Municipal Law.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 11. This act shall take effect on the 90th day.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2072, Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 7334A and substitute it for the identical Senate Bill Number 6378, Third Reading Calendar 2072.

ACTING PRESIDENT WRIGHT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2072, by Member of the Assembly Hoyt, Assembly Print Number 7334A, an act in relation to redistributing 2006 bond volume allocations.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2116, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 9293 and substitute it for the identical Senate Bill Number 6384, Third Reading Calendar 2116.

ACTING PRESIDENT WRIGHT: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2116, by Member of the Assembly V. Lopez,

Assembly --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT WRIGHT: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 2117, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 9304 and substitute it for the identical Senate Bill Number 6386, Third Reading Calendar 2117.

ACTING PRESIDENT WRIGHT: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2117, by Member of the Assembly Nolan, Assembly Print Number 9304, an act to amend the General City Law.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2007.

ACTING PRESIDENT WRIGHT: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 2121, by Senator Maziarz, Senate Print 5430A, an act to amend the General Municipal Law.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Senator Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

Well, when we were last here a few weeks ago we had a long debate about whether or not we were reforming IDAs, whether we were extending the bill, how long. And we didn't resolve the bigger question of the need to reform IDAs.

So I would argue that we shouldn't be doing piecemeal new insertions into a bad need-to-be-reformed IDA law. And this concerns me particularly because it talks about "residential facility" in the memo, but then when you read the bill you learn that you're talking about condominiums that an IDA would be allowed to make tax-exempt and authorized bonds for. And in fact, these could be luxury housing.

And so I think that financing housing developments, exempting them from taxes and offering bonds is not something that IDAs were intended for; it's what housing agencies were intended for.

So I think this is a mistake as a model and a mistake for us to continue to fiddle with the IDA law without actually reforming the IDA law. So I vote no.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Senator L. Krueger will be recorded in the negative.

Senator Schneiderman, to explain his vote.

SENATOR ONORATO: What bill are

we on?

ACTING PRESIDENT WRIGHT: Bill Number 2121 -- excuse me, on the calendar -- 5430A, the bill number. Senator Maziarz is the sponsor.

Announce the results.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Can we just have one moment, please. We seem to have a confusion.

ACTING PRESIDENT WRIGHT: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I just want to remind my colleagues, particularly on this side of the aisle, that the calendar that we're following is the Number 66 calendar. If you like to use the scorecard, this would be the one to use, to follow. Unless things go out of order, which may always happen. But things seem to be going in order, so this would be the official scorecard of the New York State Senate and the New York Mets.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Thank you, Senator Duane.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2121 are Senators Adams, Duane, Gonzalez, Hassell-Thompson, L. Krueger, Montgomery, Onorato, Oppenheimer, Perkins, Schneiderman, Serrano, Stavisky and Stewart-Cousins.

Ayes, 47. Nays, 13.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2122, Senator C. Johnson moves to discharge, from the Committee on Rules, Assembly Bill Number 8462A and substitute it for the identical Senate Bill Number 5735A, Third Reading Calendar 2122.

ACTING PRESIDENT WRIGHT: The substitution so ordered.

There is a home-rule message at the desk.

The Secretary will read.

THE SECRETARY: Calendar Number 2122, by Member of the Assembly Schimel,

Assembly Print Number 8462A, an act in relation to authorizing.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT WRIGHT: The bill is passed.

(Applause.)

ACTING PRESIDENT WRIGHT: Congratulations, Senator.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 2123, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 6997A and substitute it for the identical Senate Bill Number 6095A, Third Reading Calendar 2123.

ACTING PRESIDENT WRIGHT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2123, by Member of the Assembly V. Lopez, Assembly Print Number 6997A, an act to amend the Election Law.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Saland recorded in the negative.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 2124, by Senator Padavan, Senate Print 6393, an act to amend the Public Authorities Law.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT WRIGHT: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 2125, Senator Bruno moves to discharge, from the Committee on Rules,

Assembly Bill Number 9305 and substitute it for the identical Senate Bill Number 6400, Third Reading Calendar 2125.

ACTING PRESIDENT WRIGHT: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2125, by Member of the Assembly V. Lopez, Assembly Print Number 9305, an act to amend the Real Property Tax Law.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2007.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 2. Senators L. Krueger and Montgomery recorded in the negative.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number

2126, by Senator Skelos, Senate Print 6406, an act to amend the Executive Law.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT WRIGHT: The bill is laid aside.

THE SECRETARY: Calendar Number 2127, by Senator Golden, Senate Print 6414, an act to amend the Penal Law and the Criminal Procedure Law.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Yes, ladies and gentlemen, I just want to make it clear that this is another death penalty bill. My colleagues largely on this side of the aisle have voted against it in the past.

And for all of the same reasons

that we have voted against it in the past, we are voting against it today.

Thank you.

ACTING PRESIDENT WRIGHT: Senator Diaz.

SENATOR DIAZ: Yeah, Mr. President, I just want to explain my vote.

And I'm voting against this bill because I don't believe in the death penalty. I believe that all life is sacred in all stages, from conception to the end. So therefore, I cannot support any bill that takes away life. Life should be protected, again at all stages.

So I'm voting against this bill.

ACTING PRESIDENT WRIGHT: Senator Diaz will be recorded in the negative.

Senator Golden, to explain his vote.

SENATOR GOLDEN: Thank you, Mr. President.

I rise today and had hoped that more of my colleagues would be voting for this bill today, especially when we see the number of police officers that have been killed.

There are an average of 165 police officers killed in this country annually, and a number of over 500 are gunned down, shot here in this nation. And here we see, here in this city, five killed in this past year, 10 since November 5th of 2005.

We need to be able to give the police department and to give this state the tools it needs to stop the killing of officers and state troopers here in the State of New York. We've seen time after time -- in Trooper Sperr, in their testimony, where the testimony went back and forth and said: Hey, you do a little time or a lot of time. They can't kill you; there's no death penalty. And then they went and killed Trooper Sperr.

And we see the same thing of recent -- this past week, for three individuals gunned down, two New York City police officers, killing one of them. They had nothing to lose. They were going back to jail. Nothing to face, nothing to worry about. The only way that they thought that they would get away was by killing that officer, because they knew that they wouldn't

get a death penalty, that they would go to jail. Maybe a little time, maybe a lot of time.

But those murders of those police officers and those state troopers across this state will continue unless we give them a death penalty so that those individuals that commit those crimes understand that they will pay for their actions.

I can only pray that somewhere in the near future that the State of New York does recognize the importance of that legislation and does give the tools and we don't see a David Brinkerhoff, a Thomas Lindsey, a Joseph Corr, an Anthony Longobardo, an Anthony Sperr, a Eugene Marshalik, a Nicholas Pekearo, a Daniel Enchautegui, and a Dillon Stewart, all killed in the past two years. How many more lives, how many more mothers, fathers, how many more funerals do we have to go to?

I hope that my colleagues in this conference and in this State Senate will see the value in voting this bill, and so does the Assembly and the Governor, signing a piece of

legislation that gives the tools to the State of New York to stop this open season on police officers. Thirty-nine killed across this nation so far this year by gunshot.

Thank you, Mr. President. I vote yes.

ACTING PRESIDENT WRIGHT: Senator Golden will be recorded in the affirmative.

Senator Volker, to explain his vote.

SENATOR VOLKER: Mr. President, very quickly, I just want to say that what a tragedy it is that officer Russel Timoshenko was shot twice in the head.

Fortunately, Officer Herman Yan took a bullet in the arm and in the chest with a vest; otherwise, he would have been the other one murdered at the same time.

But I have to make a comment on a newspaper -- and I would really like Fred Dicker to have a talk with whoever the numbnuts are, if you'll excuse me, from the New York Post. Their editorial says: "In recent years, Albany has rolled back the tough Rockefeller Drug Laws" -- well, we've rolled

them back somewhat. And then it says, "The court essentially threw out the death penalty, which was supposedly restored in the mid-90s" -- it wasn't supposedly, it was -- "on technical grounds, and the lawmakers have seen no reason to fix it."

Well, I have a message for those people. Where have they been? This is the fourth time this year -- third time technically, fourth time that we've passed a bill -- that changes that provision. It's a little deadlock provision. And what infuriates me is there's little question it was a way that some Court of Appeals judges didn't have the guts to stand up and allow the death penalty to move forward.

This bill does that. The Assembly, I am convinced, will eventually do this bill. And they should. All the nonsense aside, all the stuff about, well, we don't know whether it deters. Of course it deters. It always has. The issue is do we have the courage to stand up and enact it.

I read some of the stuff that was in the New Yorkers Against the Death Penalty.

Years ago, by the way, my staff went after some of the stuff, and we got some really funny information, that it costs. That's nonsense. Of course it doesn't cost more. So much of the nonsense that's on -- the New Jersey Commission on the Death Penalty, that's just because New Jersey has gotten liberal. The murder rate went down, and they don't want to do any executions because they're afraid. Jeb Bush lost his nerve in Florida; fine.

But cops are still getting killed. They're getting killed in this state and they're getting killed in some other states. But right now we are responsible for this state. I don't want to see any more police officers gunned down in these kinds of situations. That's why I'm voting aye.

And I'm hoping that everyone in this chamber understands that this will become law before this year is out, because I don't believe the Assembly is going to allow this carnage to continue.

ACTING PRESIDENT WRIGHT: Senator Volker will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2127 are Senators Adams, Breslin, Connor, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Huntley, L. Krueger, Montgomery, Oppenheimer, Parker, Perkins, Sabini, Sampson, Savino, Schneiderman, Serrano, Smith, Stavisky, Stewart-Cousins, Thompson and Valesky.

Ayes, 36. Nays, 24.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 2128, by Senator Bruno, Senate Print 6417, an act to amend the Real Property Tax Law and the Tax Law.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 2128 are

Senators Adams, Duane, Huntley, L. Krueger, Parker, Perkins, Sabini and Schneiderman.

Ayes, 52. Nays, 8.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 2129, by the Senate Committee on Rules, Senate Print 6420, an act to authorize the City of New York.

ACTING PRESIDENT WRIGHT: Read the last section.

SENATOR SKELOS: Lay it aside, please.

ACTING PRESIDENT WRIGHT: The bill is laid aside.

Senator Skelos, that completes the reading of the noncontroversial calendar.

SENATOR SKELOS: Thank you, Mr. President. If we could go to the controversial reading at this time.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: Calendar Number 2116, substituted earlier today by Member of the Assembly V. Lopez, Assembly Print Number

9293, an act to amend the Real Property Tax Law.

SENATOR DUANE: Explanation.

ACTING PRESIDENT WRIGHT: Senator Golden, Senator Duane has requested an explanation.

SENATOR GOLDEN: Thank you, Mr. President.

This does some technical corrections as well as changes some language. It fixes a wrong reference in the definition of "affordable units" as well as referring to how long the units must remain affordable, moving up from 30 years to 40 years.

It also creates a new requirement for units built with substantial government assistance. It defines that 20 percent on initial and subsequent rental be available to individuals with 80 percent of the median area income, which is about $56,000 for a family of four. And it's 50 percent of the units which qualify for benefits must be available to individuals at 60 percent of the area median income, which is about $42,000 AMI.

And that the floor area should be

20 percent of the total area, the dwellings, so they can't diminish the size of the affordable units, that the affordable units have to be at least 20 percent in size.

It also corrects technical issues and assures that residents on the community board have access to the development on initial occupancy. It does some corrections in spelling.

It deals with the Atlantic Yards in correcting some 2500 -- spells out 2500. It corrects a reference in a paragraph to paragraph of subdivision and allows for the averaging of incomes of individuals and families to occupy their premises at a time of initial occupancy, at 70 percent from 60 percent of the area median income. And it adds a correction for Silvercup, which was a preexisting deal that was made with the City of New York.

It makes the units more flexible and the Ratner deal more diversified. It also underlines the economic conditions of the project and allows this project to go forward by averaging those units at 70 percent.

ACTING PRESIDENT WRIGHT: Thank you, Senator Golden.

I would remind the members that we are in the controversial reading of the calendar and direct that the bells be rung.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. If the sponsor would yield, please.

ACTING PRESIDENT WRIGHT: Senator Golden, would you yield to a question?

SENATOR GOLDEN: I do.

ACTING PRESIDENT WRIGHT: Senator Golden yields.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

In this amendment, what is the process by which the exclusionary areas could be compressed -- you know, retracted, made less?

SENATOR GOLDEN: Mr. President, there is no discussion in this correction on exclusionary zones.

ACTING PRESIDENT WRIGHT: Senator

Duane.

SENATOR DUANE: Thank you. Through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT WRIGHT: Senator Golden, will you continue to yield?

SENATOR GOLDEN: I do indeed.

ACTING PRESIDENT WRIGHT: Senator Duane.

SENATOR DUANE: Is there even a process by which the exclusionary zones could be expanded in this bill?

SENATOR GOLDEN: This, Mr. President, would be up to the City of New York.

The only area that I -- the Silvercup issue was in the exclusionary zone. It was removed from the exclusionary zone. That's the only area that I know of where the exclusionary zone has played a role here in this legislation.

ACTING PRESIDENT WRIGHT: Thank you, Senator Golden.

I would remind the members that we are in the midst of a debate and ask that the

conversations be taken outside the chambers.

Senator Duane.

SENATOR DUANE: Through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT WRIGHT: Will the sponsor continue to yield?

SENATOR GOLDEN: I do, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Golden will.

Senator Duane.

SENATOR DUANE: So there is a process by which the exclusionary zones could be expanded but not retracted, shrunk, diminished?

ACTING PRESIDENT WRIGHT: Senator Golden.

SENATOR GOLDEN: Mr. President, this is technical corrections. That is not in this technical correction. That is in the original bill. I'd rather we discussed what's in these chapter amendments. That's already been discussed, that bill. It's been passed. And these are technical corrections and some

language changes to that bill.

ACTING PRESIDENT WRIGHT: Senator Duane.

SENATOR DUANE: Through you, Mr. President, I just -- I'd like to make clear that we are on 2116. Is that correct, Mr. President?

ACTING PRESIDENT WRIGHT: That is correct.

SENATOR DUANE: Thank you, Mr. President. And through you, if the sponsor would continue to yield.

ACTING PRESIDENT WRIGHT: Senator Golden, will you continue to yield?

SENATOR GOLDEN: I do indeed, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Duane.

SENATOR DUANE: In the Atlantic Yards area of this, what is the impact of the affordable housing, the location and the actual income requirements for the affordable housing?

SENATOR GOLDEN: It goes to -- the project at the Atlantic Yards, this allows

for more units to be diversified and more flexible, for allowing for more affordable units in the present structure that we have here in the correction. There will be the same number of units -- 20 percent of the units will be low-income units at that site.

ACTING PRESIDENT WRIGHT: Senator Duane.

SENATOR DUANE: Through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT WRIGHT: Senator Golden, will you continue to yield?

SENATOR GOLDEN: I do indeed, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Duane.

SENATOR DUANE: Under the bill that we passed previously, 20 percent of the units had to be affordable, and in each building.

And in this bill, 20 percent of the units need to be affordable, but they don't have to be in the buildings -- each building 20 percent affordable, they could be all put

together in one building just anywhere on the site. Is that correct?

SENATOR GOLDEN: That is correct, Mr. President. This is a process that was started long before we got involved with the legislation this past three weeks ago and of course in this correction here today.

ACTING PRESIDENT WRIGHT: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Thank you, Senator.

Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you. If the sponsor would please yield.

ACTING PRESIDENT WRIGHT: Does the sponsor yield?

SENATOR GOLDEN: I do indeed, sir.

ACTING PRESIDENT WRIGHT: The sponsor yields.

Senator Krueger.

SENATOR LIZ KRUEGER: So in follow-up to my colleague Senator Duane's

questions around Section 6, paragraph 13 of your bill -- and as you stated, it involves the Atlantic Yards development project and special rules for that project -- what is the estimated new cost in lost tax revenue from paragraph 13 of Section 6 in this bill?

SENATOR GOLDEN: Mr. President, that has not been worked out with the city. I have no idea.

ACTING PRESIDENT WRIGHT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President. On the bill.

ACTING PRESIDENT WRIGHT: On the bill, Senator Krueger.

SENATOR LIZ KRUEGER: It's interesting that it hasn't been worked out by the city, since the city has been publicly saying they really don't want this and have been discussing the desire to have the bill vetoed. And the city's own statements are that this section of this chapter amendment could cost the city as much as $300 million in lost tax revenue.

And this is a special carve-out

from all the rest of 421-a rules for one specific housing development in downtown Brooklyn. It does allow a different formula for affordability. It does allow higher rents to be charged. It does allow what calculates to about 40 percent of income to be charged as rent in the affordable units, as opposed to a 30 percent of income maximum.

It does allow the developer to do a different kind of housing in a different layout and setup in perhaps only one building in the entire project instead of 20 percent on-site in each building, is as required in the rest of the 421-a bill that the Senator sponsored and this house passed, with my objection, several weeks ago.

This is a bad chapter amendment. It's not just technical amendments. It dramatically changes how 421-a would be applied in the City of New York. It would dramatically increase the costs of the 421-a program for the people of New York City. Again, this is New York City taxes that we are deciding somebody doesn't have to pay.

I think we have a serious duty to

make sure that it's the kind of legislation the people of the City of New York actually want to have passed. And if we're going to give away another $300 million of their tax dollars, somebody should check with them.

I object to this as a chapter amendment, and I'll be voting no and urging my colleagues to.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Thank you, Senator Krueger.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. If the sponsor would yield for a question.

SENATOR GOLDEN: Yes, Mr. President.

ACTING PRESIDENT WRIGHT: The sponsor yields.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: In your colloquy with Senator Duane you already clarified the fact that this would allow for a very large project to have the affordable units in a separate, isolated building. Is

there any requirement in this legislation that the units that would be designated for affordable housing be of the same quality of construction as the rest of the project?

SENATOR GOLDEN: Mr. President, on two issues. (A) the city is not against these chapter amendments, number one. The bill that the city was opposed to is the original bill, not opposed to these chapter amendments.

It states in the bill that the floor area of the affordable units must be no less than 20 percent of the total area of the dwelling units.

SENATOR SCHNEIDERMAN: Thank you. Through you, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: But my question is, is there any requirement in this bill that it be the same quality? I understand that it's 20 percent. But is that 20 percent required to be the same quality as the rest of the project?

SENATOR GOLDEN: I don't believe

that the developer would do buildings with lesser quality for one group versus better quality for another group. I don't believe that that is something that would be done by any developer in the City of New York that is getting tax credits by the City of New York to proceed to build affordable units, low-income units, as well as a project that not only works the developer but works for the city and for the community as a whole.

This is a good project. It's a project that works. It will bring affordable units, it will bring jobs. It will be a great asset not only to the borough of Brooklyn and to that community but to the city and the state of New York as well.

ACTING PRESIDENT WRIGHT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Through you, Mr. President, I appreciate the fact that you don't believe real estate developers would build shoddy housing. Interesting, but I'm not going to debate that now; the hour is late.

Other than your belief, though, is

there anything in this bill that requires the affordable housing units be the same quality of construction in any respect as the luxury units that would be developed?

SENATOR GOLDEN: It will have to be approved, Mr. President, according to the city code. The city will come in and inspect, and it will have to pass code by the City of New York.

SENATOR SCHNEIDERMAN: Thank the sponsor for his answers.

Mr. President, briefly on the bill.

ACTING PRESIDENT WRIGHT: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I did support the earlier bill because of the expansion of the exclusionary zones. I have to say, though, that this particular provision, which we do not have to pass in order for the other provisions that we passed earlier to become law, raises serious questions.

I just think it is very bad public policy for us to create an affordable housing program that permits the segregation of the

affordable housing in such a large development and has no requirement that housing for poor people, for working families be of the same quality.

I mean, this sets up a situation that really, you know, I don't know what developers Senator Golden hangs out with, but for people whose goal is to maximize their profits -- fair enough; if I buy stock in a development company, I want them to maximize profit. But this gives them an incentive to maximize their profits by building the most minimal facilities that would meet the housing code and separate them as much as possible from the luxury housing.

I think that's bad public policy. I don't think that's the kind of housing policy we should be enacting in this house. I'm going to be voting no.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I'm also going to be voting no on this legislation.

And I would just remind my colleagues that this legislation is specifically to provide some relief, if you will, to a developer who is developing a project in my district that represents the densest possible development in the whole country, in one small location.

And this is a development that has already received hundreds of millions of dollars in public subsidy. It was a development that was billed and that got some community support based on a promise that they would provide a percent of the residential development to people who live actually in the area that it would be affordable housing. And so a lot of the support came because of that.

Now here we are, in the State Legislature, passing legislation to give further assistance. This is a project that is going to reap, we just found out fairly recently, after we FOILed the original plans for this -- we had to actually go to court to get the information. We now know, the Mayor now knows -- or at least he now admits -- that this project is going to reap a 50 percent or

more profit.

So -- and we are -- we have already subsidized it, we continue to subsidize it. The property part of -- the city-owned property was leased to this project for $1, on which he intends to build a stadium and an arena.

And so here we are now, releasing this project from one of its basic promises, and that is that he would provide affordable housing on-site. It was not to be off-site, it was to be within the context of the residential development.

This residential development, by the way, once it's completed, will wipe out my district and it will wipe out a City Council district and it will wipe out an Assembly district as a majority/minority district. Three districts gone because of this development. And here we are today giving one more benefit to this same developer.

Now, I ask you, Mr. President, how far will we go to -- we already have cases pending still against this development because of the use of eminent domain, where we're

taking people's property to give to a developer who is going to reap a 50 percent return on his investment, a 50 percent profit. And that's being supported by us, the state, in terms of the eminent domain procedures.

And so now today here we are, once again, giving him more relief. How far are we going to go with this project? What does this project mean to so many people that we will give him every single possible relief, including letting him out of his promise that he was going to provide affordable housing?

So I'm adamantly opposed to this. This we should not be doing. And so, Mr. President, I ask my colleagues to join me in rejecting this process. Enough is enough.

Thank you.

ACTING PRESIDENT WRIGHT: Thank you, Senator.

Any other Senator wishing to be heard? Debate is closed.

Senator Perkins.

SENATOR PERKINS: Thank you, Mr. President.

I just want to say I'm also going

to have to oppose this. I think that segregated housing is not the way for us to go, particularly when there's been an effort to create benefits for the developer with the negotiation with the community that would be inclusive.

And what we have here is a situation in which all the housing is on the same site, but there are those who are well-off who will be on one part of the site and those less well-off, with lower incomes, on other part of the site.

And it's counter to one's intelligence to suggest that they'll be treated equally. The history of segregation and separation of this type assures us that the lower-income families will be receiving lower attention and benefits and their housing conditions will be inferior. And I think that this is going to be a bad precedent that if we allow it to happen here, it will happen time and time again.

And I don't think that this city or this state wants to go back to the days of that type of segregation. And not to mention

the fact that there appears to be a hidden benefit of $300 million to the developer that has already caused a hue and cry when it was first passed by the Assembly before we went into recess. And on which I have already received communications from advocates, even supporters of the project, who felt that that unintended benefit was not something that they would want to support.

So for those reasons I'm going to be voting against this bill. Thank you.

ACTING PRESIDENT WRIGHT: Let's try again. Any Senator wishing to be heard?

Debate is closed. The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2007.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Senator Golden, to explain his vote.

SENATOR GOLDEN: Thank you, Mr. President.

Again, I rise to vote aye on this bill. I must point out that on the original bill, there were only two nay votes and everybody else voted yes. And for all of the bills that they said they wouldn't vote for this type of housing, each one of my colleagues voted for, this last year, a very similar bill.

This allows for more affordable units than less. This is more low-income housing being built at that site, not less. And it's being built at the site, not off of the site. So this is a good piece of legislation.

And that the City of New York is heavily involved in this property, and the Building Department and City Planning will be fully involved in this property. And they will make sure that this project is built to the codes of the City of New York, which will be good construction, good housing units for the future, good commercial property as well that surrounds for jobs and jobs for the

neighborhood for the future. So this is an overall good, comprehensive bill.

Could we have done better? Yes. But right now this is the bill that's before us. And these are technical corrections.

And I thank my colleagues for voting for this bill. This will allow again for more affordable units being built in the City of New York. I vote aye.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Golden will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2116 are Senators Adams, Breslin, Connor, Duane, Hassell-Thompson, Huntley, L. Krueger, Montgomery, Padavan, Perkins, Schneiderman and Serrano.

Ayes, 48. Nays, 12.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 2124, by Senator Padavan, Senate Print 6393, an act to amend the Public Authorities Law.

SENATOR SABINI: Explanation.

ACTING PRESIDENT WRIGHT: Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President.

As we all know, several years ago we adopted a very aggressive capital construction plan in the City of New York, $13 billion, a five-year plan, to build more schools, acquire property to increase the number of classrooms and related facilities.

Last year we dealt with our budget in a very productive way by adding $700 million over the prior year, a good portion of which was earmarked for class-size reduction.

Now, to achieve those objectives of dealing with overcrowding and reducing class sizes, the School Construction Authority of the Department of Education have been aggressively building schools, acquiring property, renovating classrooms to add classrooms. That is of course a very positive thing which I'm sure you would all agree with and all of you, as I recall, supported.

Now, in addition to providing more classrooms and reducing class size, we have to make sure -- and the Department of Education has certainly carried that responsibility -- that these schools are safe environmentally speaking, that they're not in any way, shape or form buildings that would have an environment that would be injurious to the health and welfare of the children in them.

Since mayoral control, the School Construction Authority has implemented a two-phase environmental study of every acquired piece of property under a leasing program. And as you see in the bill, Phase 1 and Phase 2, if required, deal under national standards with the issue of environmental safety in a new-lease building.

That has worked well. However, it's not in law. And we can't be sure that future administrations would follow the same procedure. So what this bill does, it takes a current process and puts it in this law.

Now, in addition to that, we want to make sure that if there is a problem, a need for remediation, that there's public

awareness in the school district of what that problem might be and what's being done about it. And so we have given the responsibility to the Community Education Councils, which again, you may recall, we created soon after having given the mayor control of the educational system of the City of New York.

They are part of the system, yet independent within it. And under this legislation, they would have the responsibility, should remediation be required at a given site in a leased building, to have public hearings, to render their analysis, to advocate. And I have a great deal of faith in them, since they are, number one, the parents of the children in the school district in question, and certainly their diligence, due diligence would be above reproach in terms of motivation.

So those are the elements in the bill. One that statutizes a process that's working well in terms of dealing with the environmental issues at lease sites, and the other expanding what is currently in effect, allowing Community Education Councils --

requiring, mandating that they be involved via public hearings and other means to make sure whatever the problem might be, whatever the remediation will be is not only acceptable, desirable, but effective.

That is the bill, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Sabini, why do you rise?

SENATOR SABINI: Mr. President, if the sponsor would yield for a question.

ACTING PRESIDENT WRIGHT: Senator Padavan, will you yield for a question?

SENATOR PADAVAN: Yes, I will.

ACTING PRESIDENT WRIGHT: Senator Sabini.

SENATOR SABINI: Through you, Mr. President, the sponsor knows that during my time as chair of the City Council committee that sited schools, we did a number of successful projects, including one of the best, I believe is the Creedmoor campus --

SENATOR PADAVAN: I'm sorry, I didn't understand what you just said. Would you repeat that?

SENATOR SABINI: I said during my

time as chair of the City Council committee that sited schools, we had a number of success stories, including the Creedmoor campus in your district, which I think is a model nationwide --

SENATOR PADAVAN: Thank you very much.

SENATOR SABINI: -- for what a siting should be.

But I'm concerned, why is your bill not including the protections offered in the Assembly bill, which would require a SEQRA review, environmental review, and put the leasing in part of the ULURP process that other city projects are required to go, even leased city projects?

SENATOR PADAVAN: Well, first, there is a major difference between property the city acquires -- and you gave an example the land on the grounds of Creedmoor, we were able to, with legislation, transfer it to the City of New York. They owned it. They're stuck with it. They must do whatever is required to make it safe, environmentally and otherwise.

Now, when you're leasing buildings, keep in mind most of them were former commercial buildings. People worked in them, things went on in those buildings. And someone is sitting there with a lease in the City of New York where property today, as you know, particularly commercial property, is up through the ceiling. They're not going to sit there indefinitely holding onto that property for a process that's taking longer than it should.

Now, this does provide for a two-step environmental process, one that is nationally recognized and has been in effect for leasing property in the City of New York for a number of years. It just didn't happen this year or last year, but it's gone on for a number of years, and it's working well.

Now, we do feel, however, that there should be public awareness of what's going on. And from my point of view, the people the closest to the education of our children, with the most at stake and with the greatest sense of responsibility, are the parents who are members of the Community

Education Council.

And that's why we added this part of this, that element to this legislation, ensuring the fact that whatever happens, whatever is found, whatever is determined to be necessary would be publicly -- would be made a public process where everyone could get involved. Including local city councilmen, if they chose to.

And as you know, Senator, the State Department of Environmental Conservation has an overriding responsibility which exists today to ensure that whatever this process is, and it's working well, continues to work well. So that's another level on top of what the law -- this bill would provide in law and what is currently going on in fact.

And I might add, in addition, obviously the City Council, which allocates the individual appropriations within their budget for school buildings, would have whatever prerogatives that particular budgetary process provides.

So I think, all in all, we have a good system that would work, can continue to

work, public awareness that's there. And while I have no problem with the City Council, I do believe that there have been occasions where the siting of school buildings and the acquiring of sites have been somewhat politicized.

ACTING PRESIDENT WRIGHT: Senator Sabini.

SENATOR SABINI: Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT WRIGHT: Senator Padavan, will you continue to yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT WRIGHT: Yes, he will. Proceed.

SENATOR SABINI: Can you tell us how many of those times that has happened? Because during the time I was chair and the Senator Perkins was on the committee, Senator Duane was on the committee, I can't recall one.

Now, I do know there was a site in the Bronx that's been controversial. But can you tell me how many have been politicized, in your opinion?

SENATOR PADAVAN: Well, Senator, I really can't give you a number. But whatever the number may be, it's one too many.

But again, I get back to the basic thrust of this bill. I don't know if you were here when we created the Community Education Councils; I don't recall your tenure. But we felt then, and we feel now, they are the ones who we count on to make sure that in every school district that our children are getting the best education that we could possibly provide, and that anything that goes on in that district is done properly.

They are, for the first time, by virtue of this bill, in the process. Now, if you have a problem with that, I don't quite follow it. But to me, I believe parents whose children would be directly affected have the most at stake and therefore have the greatest responsibility in this matter.

ACTING PRESIDENT WRIGHT: Senator Sabini.

SENATOR SABINI: Mr. President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT WRIGHT: Senator Padavan, will you continue to yield?

SENATOR PADAVAN: Yes. Yes, I will.

ACTING PRESIDENT WRIGHT: He will.

SENATOR SABINI: Under your bill, if it were to become law -- and I don't know that there's an Assembly sponsor. But if it were to become law, what would be the difference in time that this review would take as opposed to a ULURP process in the City of New York?

SENATOR PADAVAN: Well, as you know, there is no particular time frame in the ULURP process that is in statute that I'm familiar with. That could go on in a variety of ways. Well, you know, Senator, I've seen ULURP processes go on and on and on and on for one reason or the other.

But there are time limits in this bill in terms of when notice is given, how long a period of time when hearings would be provided for, and so on and so on.

We have a difference of opinion,

obviously. I think this is a good way to go. I respect your opinion. I respect the opinion of the Assembly, Assemblywoman Nolan.

However, I would like to point out one final thing. This bill is supported by the Department of Education. I have their memo in front of me. It says: "The New York City Department of Education strongly supports S6393, which would amend the Public Authorities Law to require the New York City School Construction Authority to conduct environmental reviews of any proposed facility that is to be leased for educational purposes.

"The School Construction Authority, which now reports directly to the New York City Department of Education, is charged with siting and building schools to meet the demands of New York City's school population. Leasing is an important component of the ongoing effort to provide desperately needed seats on an expedited basis when sites for school construction cannot be found in the more densely populated areas of the city.

"The department works closely with the SCA to ensure new and leased facilities

are environmentally safe for our children and staff and supports adding the reviews required under this legislation. The SCA already conducts environmental due diligence, Phase 1 and 2 for leased projects, and supports the reasonable process for site reviews, a public comment period and hearing that would be established under this legislation.

"These provisions would provide an opportunity for the public to react to potential school sites without imposing a process that would create delays that could easily derail the leasing process.

"In addition, this proposal recognizes the practical distinction between the use of leasing and new construction to establish new schools. As lease sites do not become the property of the department, the SCA does not perceive that leases or reviews reveal that a site has high levels of contamination necessitating costly remediation."

So there is a distinction, obviously -- and they're pointing it out -- between leasing and acquiring property, as I

mentioned earlier.

SENATOR SABINI: Thank you, Mr. President. On the bill.

ACTING PRESIDENT WRIGHT: Senator Sabini, on the bill.

SENATOR SABINI: The sponsor says we don't disagree. Actually, I think we probably do fundamentally disagree on one item, which is that I believe that this bill would probably take just as long as the ULURP process.

It is a factual item that once SCA and City Planning calendarizes something under the city's Uniform Land Use Review Process, there's a clock. And the clock moves and if the council doesn't come to an agreement after I believe it's three weeks or 20 days, then the site is deemed approved. And I've got to tell you, as someone who has followed that committee after I chaired it, there is rarely a time when a site isn't approved.

So I think the fundamental disagreement is that the Department of Ed and the commissioner, Chancellor Klein, would like as few people to review these sites as

possible.

Now, I think that making sure that we follow due diligence on leased property when schoolchildren and personnel's health is at stake is not a bad policy. So I would like to see us instead take up Assemblywoman Nolan's bill, which puts this under the same rules that other city leased property -- see, the difference here is the SCA is a state-constructed agency, so we can change the rules under which they review leased property. And this is what this does.

But if the New York City Fire Department were to lease a building, they would have to go under ULURP. If the New York City Police Department were to lease a building, they would have to go under ULURP. And I think the men and women who work in those facilities are no less important than children who attend schools.

But the bottom line is, there's not a problem here. The council has not repeatedly rejected sites. This is out of a fit of pique over one site that was rejected over some concerns about health. And you know

what? If they erred on the side of caution, that's not bad thing.

In 1989 when the Board of Estimate was dissolved by a federal court order and the New York City Council were given land-use prerogatives, people said: They'll never build anything, they'll never want to build something next to people. They'll never want to build big projects. And you know what? That hasn't turned out to be the case.

As a matter of fact, I had, in my own district, lots of schools constructed. And let me tell you, when you put a school in a neighborhood, not everyone is for it, even though there may be a need, because the people that live next to the school may not be the same people sending their kids to the school. And yet we did move forward, because it was the right thing to do. And I can honestly say that my colleagues all did the same thing.

So there's not a problem here. And I don't believe that taking layers out of the decision-making process when it comes to the environmental health of our children who are going to be spending, in some cases, eight

years in a school -- in my district we have a school where kids spend 13 consecutive years, it's K through 12. That if we're going to send children to those schools, we want to have some surety that their health is going to be preserved.

I think that the sponsor has good intentions, but I think that this bill doesn't give us the assurances we need, and I'm going to be voting no.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Schneiderman, why do you rise?

SENATOR SCHNEIDERMAN: Thank you, Mr. President. On the bill.

ACTING PRESIDENT WRIGHT: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I also will be voting against this bill. I think it's unfortunate that the Senate appears to be moving towards passing something that provides less protection for our children from environmental dangers, from toxic substances, than we could. As the sponsor just said --

ACTING PRESIDENT WRIGHT: Senator

Padavan, why do you rise?

SENATOR PADAVAN: Will Senator Schneiderman yield to a question.

ACTING PRESIDENT WRIGHT: Senator Schneiderman, will you yield?

SENATOR SCHNEIDERMAN: I will be glad to in just a moment, if I just can finish this paragraph.

SENATOR PADAVAN: By all means.

SENATOR SCHNEIDERMAN: The Assembly's bill seems to me to be completely reasonable and preferable in every way. It does require notice to the community. It requires the submission of all leased school site applications to the City Council, which, as Senator Sabini said, has a 20-day window in which to approve. It's not a long time. And it requires that all leased school site applications are subject to a SEQRA review. That's not unreasonable. That's what we do with everything else.

This is, strangely enough, legislation that would say that everything else the city leases gets a SEQRA review, gets approved by the City Council, but the sites

that should be the most pristine, where our children are, doesn't. That, to me, is incomprehensible public policy.

And I also would suggest to the sponsor that the provision having the Community Education Councils, the Community Education Councils conduct a hearing on environmental quality, is really ludicrous.

The Community Education Councils are groups of parents. Where do they get -- is there extra funding in here? Are they given some people to advise them on this? No. There's nothing in this legislation to enable them to undertake this.

That's not what they're set up for. That's not what they should be doing. They are the least capable group of conducting such a hearing.

And I think there's a fundamental legal defect in it as well. If I seek to challenge, in litigation, a decision to locate a school in a toxic waste site or something like that, or to lease it in a site that would be unacceptable for environmental reasons, I would be in the position of having to sue the

CEC for its conduct of the hearing.

And that's not really who should be properly framed as the decision-maker. I think this could create a legal impediment to litigation against the SCA, which is the real decision-maker here, and that additionally I think is a defect here.

So with that said, I will be glad to yield for a question.

ACTING PRESIDENT WRIGHT: Senator Schneiderman will yield.

Senator Padavan.

SENATOR PADAVAN: Senator, what has been the historically, in whatever number of years you choose, a process that's been in effect for leased property for schools vis-a-vis environmental review? What has been the process in effect?

SENATOR SCHNEIDERMAN: I don't understand the question.

SENATOR PADAVAN: In other words, prior -- well, right now, as a matter of fact, what is the process that is today in effect relevant to leased property for the use as classrooms?

SENATOR SCHNEIDERMAN: The process is similar to what this -- similar if not identical to what this legislation proposes.

However, there is a significant increase in the use of leased property for city schools. We're obviously in a situation now where we have a crisis in our city schools to authorize capital --

SENATOR PADAVAN: Will the Senator yield. I don't think he answered the question.

SENATOR SCHNEIDERMAN: I'm sorry, I would like to be allowed to finish my response to the question.

ACTING PRESIDENT WRIGHT: Excuse me, Senator Padavan. Senator Schneiderman has the floor.

SENATOR SCHNEIDERMAN: Thirty-one percent of all new capacity seats in the Department of Education's five-year capital plan is going to be leased. There's a significant increase in the use of leased property. And as we all know, it's hard to find property in many areas.

It is understandable that people who are desperate to find property, whose jobs are on the line if they don't lease space for schools, might want to reduce the level of review. But it's not the job of this Senate, of this Legislature, to allow them to circumvent basic environmental requirements. And they are not able to do that in any other building leased by the city, and the Assembly bill would prevent them from doing that.

So I don't see any reason for us to propose something different than the Assembly bill. I think Senator Sabini has explained very well why that would work. And I find it absolutely incomprehensive that we're imposing on the poor beleaguered parents of our CECs the obligation to hold public hearings on environmental issues.

So those are my concerns, Senator. And I realize that this is similar to the process that's in effect now. But I do think we have an opportunity here to significantly improve on that process and to protect our children, to provide more protections for our children from toxic wastes and other

environmental hazards.

ACTING PRESIDENT WRIGHT: Senator Padavan.

SENATOR PADAVAN: Will the Senator yield.

ACTING PRESIDENT WRIGHT: Senator Schneiderman, will you yield?

SENATOR SCHNEIDERMAN: I'm happy to yield.

ACTING PRESIDENT WRIGHT: The Senator yields.

SENATOR PADAVAN: Senator, maybe I didn't make myself clear. What is currently in law today relevant to the acquisition of sites to be leased for schools? What is currently in law?

SENATOR SCHNEIDERMAN: Well, there are a series of provisions that the schools -- that define the School Construction Authority and define its -- I mean, there are a whole variety of laws about leases for schools. If you're referring to this specifically, I don't think there is a provision like this in law.

SENATOR PADAVAN: There is

nothing in law.

SENATOR SCHNEIDERMAN: On this specific issue that's addressed in this bill.

SENATOR PADAVAN: Thank you. Thank you very much. That's the question I was asking. So now if you would continue to yield.

SENATOR SCHNEIDERMAN: Be happy to yield.

SENATOR PADAVAN: We have two proposals, one in the Assembly and one before us here, that have a different way of going at it. Here we do require environmental Phase 1 and 2 nationally accepted standards, with DEC oversight, which has always been there. And we involve the Community Education Councils when public awareness is necessary.

Now, you seem to think that the CECs are ill-equipped or ill-motivated or not whatever and don't have the resources. Well, I don't know about the CECs you've been exposed to, but the ones I have get into everything -- and thank heaven they do -- including new construction.

Are you aware of the fact that when

a new building goes up in a school district, CECs get involved intimately in evaluating the school and everything about it? They do that today. They've done it in my district, not only in those three schools you mentioned but in others. So where --

SENATOR SCHNEIDERMAN: Could I get a question, Mr. President?

SENATOR PADAVAN: My question, Senator, is where do you come up with the judgment that they're ill-equipped to not only inquire, investigate, but to probe into the safety of the schools that are either being built or renovated, leased or acquired in their school districts? Where do you come up with that judgment?

ACTING PRESIDENT WRIGHT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Based on my own experience in CECs, the difficulty we've had in finding parents to participate in CECs, the lack of staff, the lack of budgeting. Perhaps you fund your CECs with member items. Perhaps in a few years we'll be able to fund our CECs with member items. But

that's not the right way to do public policy.

My suggestion, Senator, is we on this side of the aisle do not have the opportunity to participate in the debate over the drafting of this legislation. Our opportunity to have input is now.

And I am suggesting that the input I would like to have is that the Assembly bill is far superior and that it is disgraceful for this house to take the position that our children in leased facilities should not have the same basic environmental review and protection from toxic waste that goes to every other leased facility in the City of New York and that go to new school facilities. That's it. Simple. Why should we do less for our children?

That's my objection. I stand by it. And I suggest that everyone vote no.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Hassell-Thompson, why do you rise?

SENATOR HASSELL-THOMPSON: On the bill, Mr. President.

ACTING PRESIDENT WRIGHT: On the

bill.

SENATOR HASSELL-THOMPSON: Just two quick statements that I'd like to make on the bill.

One is that I've listened to the discussion by Senator Padavan defending the ability of parent groups. And I would like to suggest to him and to any others that while that may exist in a district or in your district, it is not uniform.

There is not the same authority, there is not the same resource ability across the board to do this. Were that not true, one of the schools that you were discussing that was held up, presumably thought to be for political reasons, was predominantly because the City Council and the community groups were not satisfied that the cleanup in the leased school was sufficient on behalf of the children of that district.

And, Senator, to you and to anybody else who believes that we don't have a right to ask for and require of our City Council members to be a part of that process because they're on the ground -- that's part of their

job, that's what we hold them accountable to do. And as the on-the-ground people, I trust their resources and their ability to opt on behalf of our children.

And therefore I will be voting no and I certainly will be encouraging all of my colleagues that this is not the best interests particularly of children in black and Latino districts.

ACTING PRESIDENT WRIGHT: Senator Perkins.

SENATOR PERKINS: Thank you, Mr. President.

I just want to echo the concerns of my colleagues Senators Schneiderman and Hassell-Thompson and others with respect to this legislation, particularly in terms of the role of the parent boards. Which, with all due respect, are very, very enthusiastic, very, very committed, very, very involved, and in many respects very, very talented -- but powerless. They have absolutely no power.

They were designed to be powerless. They were not designed to be able to stop anything, as might be the City Council through

the so-called ULURP process.

So if in fact we want them to play that role, then we should have empowered them in such a way that they could play this role. But they really can't. And in fact, they express very often to me their frustration about the fact that they are powerless with regard to these matters.

Now, if we want a sort of superficial opportunity or effort to give the blemish that there's some parental involvement or some parental support, then we can go forward with that. But that won't be honest. This is in a sense a secondary or a second-class approach to really looking at the safety of these particular facilities.

We need leasing, and leasing has a value. But it loses that value when, through that, that we expedite it without providing the necessary protections for the health and well-being of the children.

And the council has an awesome amount of resources to have full-blown hearings, to bring in experts, to really do the scientific research that's necessary so

that at the end of the process one can feel some great deal of confidence that this was done in the proper way.

So I think that this particular piece of legislation, while it takes us places where we haven't been before, does not take us places we want to go. Which is to guarantee that this leasing is done in such a way that it's safe, that it's expeditious, but not so expeditious that it doesn't have the highest standards as it relates to the safety of the children.

And the best way to do that is through this ULURP process through the City Council that has the resources, that has the obligation, the accountability and actually represents the area as do the parents.

So I'm going to have to vote no on this as well.

ACTING PRESIDENT WRIGHT: Is there any other Senator wishing to be heard?

Debate is closed. The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 90th day.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Senator Sabini, to explain his vote.

SENATOR SABINI: Thank you, Mr. President. I just want to note for my colleagues the strange irony in this action.

The Mayor -- and I supported it -- wanted control over the Department of Education, so he got rid of the Board of Ed and created a city agency. But what this bill does is exploit the fact that the School Construction Authority is not a city agency, it's a state-created authority. And by passing this, it averts city control. That's the strange irony here.

If the Department of Education had gotten the responsibility to build city schools -- I don't know that they should have it. But if we had given full mayoral control, they would be the subject to ULURP like any other city agency.

So there's a strange irony in this

that the Department of Ed is asking to support an SCA effort that they have to support, that they have to come in compliance with themselves if, say, the Department of Education were to lease an office building for their own personnel.

I vote no.

ACTING PRESIDENT WRIGHT: Senator Sabini will be recorded in the negative.

Senator Stavisky, to explain her vote.

SENATOR STAVISKY: Yeah, very briefly.

In many parts of the city it's been increasingly difficult to find sites for schools. As a result, the city has had to lease the space.

Secondly, it's been very difficult to find people to serve on these committees, on the CECs. And it's been almost void of any support services. As a result, they feel without power.

On the other hand, we do have certain bodies that do have accountability, that do have the support services. For one

thing, we have the local community boards. And under this legislation, I believe they are not -- they do not receive notification of the siting of a leased school facility.

Secondly, we have the council members. And certainly nobody's ever accused the New York City Council people of being shy and reticent and unwilling to hold hearings.

And at the same time, there is the question of accountability. So the local community boards, the City Council, these are bodies which have the facilities, they can be held accountable, far more so than simply the CECs.

And as a result, Mr. President, I vote no.

ACTING PRESIDENT WRIGHT: Senator Stavisky will be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 2124 are Senators Adams, Breslin, Connor, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Huntley, C. Johnson, Klein, L. Krueger, Montgomery, Onorato, Oppenheimer, Parker, Perkins, Sabini,

Sampson, Savino, Schneiderman, Serrano, Smith, Stachowski, Stavisky, Stewart-Cousins, Thompson and Valesky.

Ayes, 32. Nays, 28.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 2126, by Senator Skelos, Senate Print 6406, an act to amend the Executive Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President.

If I could, prior to the termination of regular session, the Senate passed Governor Spitzer's program bill concerning the expansion of the DNA database. Unfortunately, as he traveled the state, he forget to mention that as he was commenting on unfinished business.

But what we've really tried to do with this legislation is strike a compromise, taking into account the work that was really

done at the joint conference committee. And I know Senator Schneiderman made some recommendations.

So really what we do here -- and I think this is a fair compromise -- Senate priorities were to include all fingerprintable offenses, youthful offenders and persons subject to registration as a sex offender. These would include failure to register as a sex offender and failure to verify addresses, DWIs and DWAIs. Which would not be included if it was just misdemeanors, as is proposed by the Assembly.

It specifies the public officer's responsibility for collecting DNA samples from defendants and requires that a defendant under probation or parole supervision provide a DNA sample to ensure that every person convicted of a crime has their DNA collected and added to the data bank. These were the priorities of the Senate Majority.

Now, some of the Assembly priorities, and I believe with the Senate Minority, were to -- it strikes from the legislation the Senate plan to extend the

statute of limitations in all cases where DNA is available and also does nothing in terms of the John Doe indictment process.

This creates a wrongful conviction commission but limits the scope to that proposed by the Governor, but it is outside of the Division of Criminal Justice Services.

It expands defendants' ability to apply for DNA testing before trial and also in cases where they have previously pled guilty, and expands the scope of defendant's application to include a comparison between crime scene evidence and DNA data banks. Basically we do not want anybody to be in jail that should not be in jail.

It overrules existing case law, limiting ability of wrongful convicted persons to recover against the state, and strikes the 440 motion reform proposed by the Governor.

ACTING PRESIDENT WRIGHT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank the sponsor for his explanation.

Mr. President, I believe there is an amendment at the desk. I ask that the

reading of the amendment be waived and would like to be heard on the amendment.

ACTING PRESIDENT WRIGHT: There is. The reading is waived, and you may be heard on the amendment.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I agree with Senator Skelos that this bill represents significant progress over the bill that was passed in the Senate earlier this year. And I very much appreciate him saying that our goal is to see that no one is in prison who doesn't belong there, that innocent people are exonerated and that guilty people are convicted.

My amendment is to make this a better bill and to enable it to do just that. Some of the defects in this bill -- and again, it is a step forward, but I believe it doesn't go nearly far enough -- include the following. This bill does not eliminate rogue DNA databases. They're DNA databases that have to be eliminated or brought into compliance with some strict set of standards to protect all of us, frankly.

This bill also does not provide mandatory guidelines for collection, preservation and indexing of evidence. It has voluntary guidelines that a commission may make mandatory.

The reason that these are so important is that currently, if there's a murder in my building and all the people in the building give their DNA to be tested so it can be excluded, that may sit in a rogue database and may be run for a test over and over again. We don't know. There are different local governments and jurisdictions that have these rogue databases. We've got to get rid of them.

We've got to have one standard for mandatory guidelines for all DNA and indexing for all DNA to prevent the travesties of justice we've heard so much about, the case of Alan Newton being one of the primary ones that's come before us -- and he came up to Albany to lobby on this issue -- where the crime scene DNA was lost for 16 years and they couldn't find it because there was no proper indexing.

This bill does allow, and this is a good thing, the court to order, on a request from a defendant, that a defendant's DNA be compared to the crime scene's DNA. Most people don't understand that this is not the case. It is incredible to me that a defendant cannot request that their DNA be run against a crime scene DNA.

This bill would allow that to be done under a court order. However, it doesn't allow the court to order a comparison of the defendant's fingerprints to the fingerprints at the crime scene. Let's -- again, on the principle that we want to make sure all innocent people get out of jail, let's make that change as well.

The commission for exoneration review that is created in this bill I believe is unduly restricted, its mandate is unduly restrictive, and the composition of the commission is flawed. My amendment seeks to correct these things.

And finally, my amendment would add to this bill two provisions that the Assembly has added that I think are absolutely

essential to protect the innocent from wrongful conviction. Those are modifications of our state procedures for eyewitness identification and the requirement for videotaping in custodial interrogations.

Coincidentally, yesterday in the New York Times there were stories of two wrongful convictions. One was a gentleman named Richard Lapointe, who is mentally impaired and was convicted based on signed confessions. He was questioned for nine hours, until 1:30 in the morning, and he signed three inconsistent confessions. We have to deal with this issue. We have to move beyond the people who are easier to exonerate to situations where custodial interrogations produce false confessions.

The second story, Troy Davis. This is a man -- there was little physical evidence. Prosecutors relied on testimony of nine eyewitnesses. Again, we're dealing with a situation where these are white eyewitnesses against a black defendant. Nine eyewitnesses took the stand against Mr. Davis. Since his trial, seven of the nine have recanted or

changed their testimony, saying they were harassed and pressed by investigators to lie under oath. Other witnesses have come forward identifying a different man as the shooter.

So I appreciate the fact that Senator Skelos is moving this forward. The changes in the bill do give me confidence we will actually get something done before end of the year.

But I would urge everyone, let's adopt the additional provisions in this amendment. Let's make this bill a better bill. Let us ensure that no innocent person in New York State is ever convicted of a crime they didn't commit or ever incarcerated for a crime they did not commit. I urge everyone to vote for this amendment.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Thank you, Senator Schneiderman.

On the amendment, those Senators in agreement please signify by raising your hands.

THE SECRETARY: Those recorded in agreement are Senators Adams, Breslin, Connor,

Dilan, Duane, Gonzalez, Hassell-Thompson, Huntley, Montgomery, Onorato, Oppenheimer, Parker, Perkins, Sabini, Sampson, Savino, Schneiderman, Serrano, Smith, Stavisky, Stewart-Cousins, and Thompson.

ACTING PRESIDENT WRIGHT: The amendment is not agreed to.

On the bill, any Senator wishing to be heard?

Debate is closed. The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 13. This act shall take effect November 1, 2007.

ACTING PRESIDENT WRIGHT: Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Yes, I vote aye. And I think at this juncture of this session --

ACTING PRESIDENT WRIGHT: Excuse me, Senator.

Will the Senate please come to order. Senator DeFrancisco is explaining his vote.

Thank you.

SENATOR DeFRANCISCO: I think at this juncture in the State Senate's proceedings for this year we now have passed three different DNA database bills, bills that everyone seems to believe make sense insofar as it not only provides more evidence, potentially, to help convict the guilty but also to exonerate the innocent.

And I know it's a Governor's priority bill, although he didn't come to my area to explain he was sad that the Assembly didn't pass the bill. It seems to me that with three different options, the Assembly should come back at some point this session and deal with this issue, because it is so important not only for law enforcement in this state but also to exonerate the innocent.

We've got like a Chinese menu at this point. Hopefully we don't have to go through more choices without the Assembly coming on board and getting this done. I vote aye.

ACTING PRESIDENT WRIGHT: Senator DeFrancisco is recorded in the affirmative.

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 2126 are Senators Adams, Diaz, Duane, Gonzalez, Hassell-Thompson, Huntley, L. Krueger, Montgomery, Parker, Perkins, Schneiderman and Serrano.

Ayes, 48. Nays, 12.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 2129, by the Senate Committee on Rules, Senate Print 6420, an act to authorize --

SENATOR PADAVAN: Lay it aside.

ACTING PRESIDENT WRIGHT: Lay it aside.

SENATOR PADAVAN: Mr. President, could we return to Calendar Number 2130, noncontroversial.

ACTING PRESIDENT WRIGHT: We will return to Calendar Number 2130 on the noncontroversial calendar.

SENATOR DIAZ: Mr. President.

ACTING PRESIDENT WRIGHT: Excuse me, Senator Diaz, why do you rise?

SENATOR DIAZ: I was called back to Albany, and I came to deal with this business. They keep calling lay it aside. Do they have the votes or no? I was called to vote on this. So let's do it.

ACTING PRESIDENT WRIGHT: Senator Diaz, the bill has been laid aside. We are on Calendar Number 2130. We have a message of necessity --

SENATOR DIAZ: They called me back, they called me back --

ACTING PRESIDENT WRIGHT: Excuse me, Senator Diaz. We are on Calendar Number 2130.

We have a message of necessity at the desk.

The Secretary will read.

THE SECRETARY: Calendar Number 2130, by Senator Nozzolio, Senate Print 6422, an act to amend the Correction Law and the Mental Hygiene Law.

ACTING PRESIDENT WRIGHT: Senator Padavan.

SENATOR PADAVAN: Move to accept the message of necessity, Mr. President.

ACTING PRESIDENT WRIGHT: The motion is to accept the message of necessity. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WRIGHT: Opposed, nay.

(No response.)

ACTING PRESIDENT WRIGHT: The message is accepted.

Read the last section.

THE SECRETARY: Section 8. This act shall take effect immediately.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Senator Nozzolio, to explain his vote.

SENATOR NOZZOLIO: Thank you, Mr. President.

My colleagues, we are enacting this afternoon a landmark measure which is changing the complexity of our prison system. It's a three-way agreement between the Assembly, the Senate --

ACTING PRESIDENT WRIGHT: Excuse

me, Senator Nozzolio.

Could I ask for some order, please, and courtesy be extended to Senator Nozzolio, who's explaining his vote.

If you have a conversation, please take it outside the chamber. Thank you.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

My colleagues, this is a landmark legislative measure, fully agreed upon with the Assembly and the Governor, which will establish our prisons to be the hallmark of the prison system in all of the United States of America.

This legislation encourages, establishes and requires the different treatment of the mentally ill who are incarcerated behind our prisons. That this bill enhances the safety and security of the men and women who work in our correctional facilities, walk the toughest law enforcement beat of all of those law enforcement officers of America, as our correction officers keep order within the prison system.

This legislation will make our prisons safer, will make our prisons more humane. And I fully endorse it, am pleased to see it pass, and thank you, Mr. President, for the ability and opportunity to explain it.

ACTING PRESIDENT WRIGHT: Senator Nozzolio is recorded in the affirmative.

Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr. President.

I just once again want to commend Senator Nozzolio on this terrific piece of legislation. And I'm very, very pleased that he also worked hard to forge an agreement with the executive so that we can have more humane and indeed safer conditions in our correctional facilities.

I'll be voting in the affirmative, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Duane will be recorded in the affirmative.

Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President. I rise to join my colleague

Senator Duane in really thanking and complimenting Senator Nozzolio.

This really is a very important legislation. It's one that we have hoped to see come to the floor for some time. It reflects an intent to be much more humane, because a number of people who are incarcerated are in fact very seriously mentally ill. And this legislation will help us identify and provide some treatment and try and make sure that people who do come back to their communities come back in hopefully a much better condition, mentally and psychologically, if they in fact have mental illness.

So I thank you, Senator Nozzolio, and I think you deserve a special commendation for this landmark legislation.

Thank you.

ACTING PRESIDENT WRIGHT: Senator Montgomery will be recorded in the affirmative.

Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: I just want

to say a word, Mr. President, about the woman that just spoke before me because Velmanette Montgomery had held hearings several years ago about SHUs and about how unfair and how medically unsound they were.

Certainly if you put someone with mental illness into a SHU, they're going to come out with worse mental illness. And if we hope in some small way to rehabilitate people in prison, putting them in SHUs with mental illness does exactly the opposite.

So I thank you for the work you have been doing for many years, Senator Montgomery, and I certainly thank Senator Nozzolio for finally bringing this to the floor and offering some humane treatment to people who desperately need a little more humanity.

Thank you.

ACTING PRESIDENT WRIGHT: Senator Oppenheimer will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 60. Nays, 0.

ACTING PRESIDENT WRIGHT: The bill is passed.

(Scattered applause.)

SENATOR PADAVAN: Mr. President.

ACTING PRESIDENT WRIGHT: Senator Padavan.

SENATOR PADAVAN: May we proceed with the noncontroversial calendar, Number 2131.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: Calendar Number 2131, by Senator Nozzolio, Senate Print 6423, an act to amend the Correction Law.

ACTING PRESIDENT WRIGHT: Senator Padavan.

SENATOR PADAVAN: I ask that the message of necessity be accepted.

ACTING PRESIDENT WRIGHT: There is a message at the desk.

The motion is to accept the message of necessity. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WRIGHT:

Opposed, nay.

(No response.)

ACTING PRESIDENT WRIGHT: The message is accepted.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as Section 4 of a chapter of the Laws of 2007.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT WRIGHT: The bill is passed.

Senator Padavan.

SENATOR PADAVAN: Can we move to adopt the Resolution Calendar.

ACTING PRESIDENT WRIGHT: Motions and resolutions.

All in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WRIGHT: Opposed, nay.

(No response.)

ACTING PRESIDENT WRIGHT: The Resolution Calendar is adopted.

Senator Padavan.

SENATOR PADAVAN: Mr. President, we are about to stand at ease. However, there is a Rules Committee meeting at this time.

ACTING PRESIDENT WRIGHT: A meeting of the Rules Committee will be convened in the Majority Conference Room.

In the interim, the Senate will stand at ease.

(Whereupon, the Senate stood at ease at 5:26 p.m.)

(Whereupon, the Senate reconvened at 5:48 p.m.)

ACTING PRESIDENT WRIGHT: Senator Padavan.

SENATOR PADAVAN: Mr. President, may we please return to the reports of standing committees for a report of the Rules Committee.

ACTING PRESIDENT WRIGHT: We will return to the order of reports of standing committees for the report of Rules Committee.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 1052A, by Senator Little, an act to establish;

6249, by Senator Maziarz, an act to allow;

6351, by Senator Robach, an act to amend the Real Property Law;

4324B, by Senator Maziarz, an act to amend the Environmental Conservation Law;

3495, by Senator Libous, an act to amend the Vehicle and Traffic Law;

3841, by Senator Seward, an act to amend the Insurance Law;

3967A, by Senator Golden, an act to amend the Executive Law;

5525, by Senator Thompson, an act relating to certain bonds;

5687B, by Senator Fuschillo, an act to amend the Civil Service Law;

6396, by Senator Morahan, an act to amend a chapter of the Laws of 2007;

6398, by Senator DeFrancisco, an

act to amend a chapter of the Laws of 2007;

6403, by Senator Padavan, an act to amend the Civil Service Law;

6404, by Senator Maltese, an act to amend the Transportation Law;

6405, by Senator Marcellino, an act to amend a chapter of the Laws of 2007;

6408, by Senator Lanza, an act to amend the Criminal Procedure Law;

6409, by Senator Larkin, an act to amend the Tax Law;

6415, by Senator Morahan, an act to amend the Public Health Law;

6418, by the Senate Committee on Rules, an act to amend the Public Health Law;

6421, by Senator Libous, an act to amend the Vehicle and Traffic Law;

And Senate Print 3154, by Senator Montgomery, an act to amend the Family Court Act.

All bills ordered direct to third reading.

ACTING PRESIDENT WRIGHT: Senator Padavan.

SENATOR PADAVAN: Mr. President,

I move that the Rules Committee report be accepted.

ACTING PRESIDENT WRIGHT: All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WRIGHT: Opposed, nay.

(No response.)

ACTING PRESIDENT WRIGHT: The Rules Committee report is accepted.

SENATOR PADAVAN: Can we stand at ease for a few moments, Mr. President.

ACTING PRESIDENT WRIGHT: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 5:50 p.m.)

(Whereupon, the Senate reconvened at 5:55 p.m.)

ACTING PRESIDENT GRIFFO: Senator Padavan.

SENATOR PADAVAN: Mr. President, may we have the noncontroversial reading of the calendar.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 620, by Senator Little, Senate Print 1052A, an act to establish a blue ribbon commission.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1934, by Senator Maziarz, Senate Print 6249, an act to allow William P. Grillo to file.

ACTING PRESIDENT GRIFFO: There is a home-rule message at the desk.

The Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1999, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 9244 and substitute it for the identical Senate Bill Number 6351, Third Reading Calendar 1999.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1999, by Member of the Assembly Heastie, Assembly Print Number 9244, an act to amend the Real Property Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The

bill is passed.

THE SECRETARY: Calendar Number 2011, by Senator Maziarz, Senate Print 4324B, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Maziarz, to explain his vote.

SENATOR MAZIARZ: Thank you very much, Mr. President.

Mr. President, this is really a great day for the Great Lakes in New York State. This is a bipartisan bill. And I'm very proud, this bill has been in the works for several years now. And New York State is taking a leadership role in moving this Great Lakes compact forward. This involves several states and the federal government.

The Great Lakes ecosystem is a

natural wonder of the world. It holds one-fifth -- one-fifth -- of the entire world's freshwater supply. It is 95 percent of the freshwater surface in the entire United States. Lake Erie, Lake Ontario and the St. Lawrence Seaway define over 700 miles of New York borders. They supply water for millions of New Yorkers, businesses, and billion-dollar industries such as tourism and fishing. These waters hold the key to our economic health, recreational opportunities, wildlife habitat, and regional character.

However, in the increasingly water-hungry world today, the Great Lakes are being eyed as an easy source by other regions of the country and even other parts of the world. Some predict that freshwater will soon be more valuable than oil. Some argue that it already is. The Great Lakes seem limitless but in fact are able to replenish only about 1 percent of their water each year. If more water is taken out than the lakes can replenish, their fragile ecosystem is jeopardized, and everything that depends on it.

Recognizing this, in 2001 the eight Great Lakes states and two Canadian provinces began negotiations about how to regulate water diversions from the Great Lakes and manage the water in a sustainable way. Four years of negotiations produced the bill that is before us today, the Great Lakes-St. Lawrence River Basin Water resources Compact. It's a remarkable collaborative and, I stress, bipartisan achievement.

Each state and the United States Congress must ratify the compact for it to be implemented.

The bill calls on the Department of Environmental Conservation and New York's Great Lakes Basin Advisory Board to complete a number of tasks associated with implementing the compact in New York, including recommendations for any necessary further legislation.

The board will establish the method for determining the baseline of how much water can be used beyond current water-use levels. To do this, it will need to consider the historic levels of water use and the physical

capacity of the current water withdrawal systems, and it will determine the impacts of new or increased water withdrawals.

The use of Great Lakes water is complex and will be an increasingly contentious issue. The board members should be representative of the many interests that have a stake in using Great Lakes water in order to collaboratively reach economically fair, ecologically defensible and feasible recommendations.

I urge the board to also find ways to include the Legislature and regional governance as it pursues its task.

Again, I want to emphasize that this is a bipartisan bill that represents a lot of hard work over a very long period of time. And I want to commend all of my colleagues and the staff people who worked on this.

Thank you very much, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Maziarz to be recorded in the negative.

Senator Thompson, to explain his vote.

SENATOR THOMPSON: Yes, Mr. President. I believe that my colleague from Niagara County spoke very eloquently about why this bill is so important.

The Great Lakes-St. Lawrence River Basin Compact allows New York State to benefit from management decisions regarding water withdrawals and water use in the basin.

Let me also note as well that 2 million residents throughout upstate New York rely on the Great Lakes and St. Lawrence drainage basins for their water. In fact, 15 percent of the state's electricity comes from two hydropower plants at Niagara and the FDR on the St. Lawrence as well.

As the Senator whose entire district is bordered by the Niagara River and includes most of the productive hydropower plants in the state, I can only support this well-deserved bill. I congratulate the lead sponsor of this bill, which does have bipartisan support.

And we really have to continue to protect our water supply, and I think that's going to be one of the major debates in 2020

and beyond, about fresh and clean water in American society.

Thank you.

ACTING PRESIDENT GRIFFO: Senator Thompson to be recorded in the affirmative.

Senator Wright, to explain his vote.

SENATOR WRIGHT: Thank you, Mr. President.

As one who represents the Lake Ontario region, at least eastern Lake Ontario, and the St. Lawrence River, I rise to commend Senator Maziarz and congratulate him on his efforts to achieve an agreement which I think is critical to the future of the Great Lakes region and particularly the northern New York region of the Great Lakes, which is heavily dependent upon that water resource, both from a tourism and a recreational standpoint, but also from a power and economic standpoint.

So I'm very pleased to join my colleague in supporting this legislation and want to recognize his efforts and all of the efforts that have brought it to passage here this afternoon. I'll vote in the affirmative.

ACTING PRESIDENT GRIFFO: Senator Wright to be recorded in the affirmative.

Senator Stachowski, to explain his vote.

SENATOR STACHOWSKI: Yes, Mr. President, I too rise to congratulate everybody involved, and especially Senator Maziarz, and the fact that it was a bipartisan effort and that New York State is taking the lead.

As somebody who represents a lot of the shoreline of Lake Erie, it's very important to us. And the fact is that the water from most of the Great Lakes end up going over the Niagara. So it's important to have this compact to protect our clean water. It's very important not only from an economic standpoint but from a survival standpoint, because all of the people along the Great Lakes, their drinking water comes from there.

So with the threats to the freshwater that we have not only from various species but also from other states, as Senator Maziarz pointed out, this step is a very important step and I hope the first of a very

important compact that will protect our Great Lakes waters for all the states that surround it.

Thank you.

ACTING PRESIDENT GRIFFO: Senator Stachowski to be recorded in the affirmative.

Senator Alesi, to explain his vote.

SENATOR ALESI: Thank you, Mr. President.

The Great Lakes are vitally important to all of us. It's not just the issue that many of us have part of our districts on the Great Lakes, but as the chairman of the Committee on Commerce and Economic Development, I know how vitally important it is that we have this huge source of freshwater in the Northeast, part of a whole series of Great Lakes and waterways as well.

It's important to the people that I represent, the people in New York State -- in fact, people in the entire world -- when you think about the commerce that goes through the Great Lakes, whether it's between the lakes themselves or up the St. Lawrence Seaway.

You think about the importance of a source of freshwater for the millions of people that rely on it for drinking. Tourism, the state's number-two industry, is so reliant on our Great Lakes, as well as agriculture, which is the state's number-one industry. And energy as well.

There are so many times when we take for granted turning on the water and getting fresh water or any of the things that the Great Lakes provide for us. And I think that Senator Maziarz and those people who worked along with him, recognizing that this is an international effort, should be congratulated for their diligence and for their commitment to this compact.

I'm proud to support it and thank Senator Maziarz for his efforts as well.

ACTING PRESIDENT GRIFFO: Senator Alesi to be recorded in the affirmative.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: As a cosponsor, I want to rise and also indicate my support for this bill.

I think that the benefits of the bill have pretty well been outlined, and I think there's another significant factor here. And that is that the compact is a compact among several states and two Canadian provinces. And despite being continually criticized as being a dysfunctional legislature, we are among the leaders in moving this compact. And hopefully our leadership of being one of the first to sign on is going to be important to make this a reality.

And the importance of this bill cannot be overemphasized in view of how it's going to affect the use of those lakes for many, many generations to come. I vote aye.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 60. Nays, 0.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2132, Senator Libous moves to

discharge, from the Committee on Rules, Assembly Bill Number 8051 and substitute it for the identical Senate Bill Number 3495, Third Reading Calendar 2132.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2132, by Member of the Assembly Bradley, Assembly Print Number 8051, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2133, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 9233 and substitute it

for the identical Senate Bill Number 3841, Third Reading Calendar 2133.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2133, by Member of the Assembly Morelle, Assembly Print Number 9233, an act to amend the Insurance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2134, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 7129A and substitute it for the identical Senate Bill Number 3967A, Third Reading Calendar 2134.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2134, by Member of the Assembly Millman, Assembly Print Number 7129A, an act to amend the Executive Law and the Social Services Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 13. This act shall take effect on the first of April next succeeding.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2135, by Senator Thompson, Senate Print 5525, an act relating to certain bonds issued by the City of Buffalo.

ACTING PRESIDENT GRIFFO: There is a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2136, by Senator Fuschillo, Senate Print 5687B, an act to amend the Civil Service Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2137, by Senator Morahan, Senate Print 6396, an act to amend a chapter of the Laws of 2007, establishing a temporary task force.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2007.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2138, by Senator DeFrancisco, Senate Print 6398, an act to amend a chapter of the Laws of 2007, amending the Court of Claims Act.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2007.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Saland recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2139, by Senator Padavan, Senate Print 6403, an act to amend the Civil Service Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2140, by Senator Maltese, Senate Print 6404, an act to amend the Transportation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of

2007.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2141, by Senator Marcellino, Senate Print 6405, an act to amend a chapter of the Laws of 2007, amending the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2007.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2142, by Senator Lanza, Senate Print 6408, an

act to amend the Criminal Procedure Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2007.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2143, by Senator Larkin, Senate Print 6409, an act to amend the Tax Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2007.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2144, Senator Klein [sic] moves to discharge, from the Committee on Rules, Assembly Bill Number 7076C and substitute it for the identical Senate Bill Number 6415, Third Reading Calendar 2144.

ACTING PRESIDENT GRIFFO: The substitution is so ordered.

Calendar Number 2144 will be laid aside temporarily.

The Secretary will read.

THE SECRETARY: Calendar Number 2145, by the Senate Committee on Rules, Senate Print 6418, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2007.

ACTING PRESIDENT GRIFFO: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 2146, by Senator Libous, Senate Print 6421, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2007.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2147, Senator Montgomery moves to discharge, from the Committee on Rules, Assembly Bill Number 1353 and substitute it for the identical Senate Bill Number 3154,

Third Reading Calendar 2147.

ACTING PRESIDENT GRIFFO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2147, by Member of the Assembly Aubertine, Assembly Print Number 1353, an act to amend the Family Court Act.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Wright, to explain his vote.

SENATOR WRIGHT: Thank you, Mr. President.

I join Senator Montgomery and encourage the adoption of this legislation.

As you may well be aware, for each of the last three years, going back to 2005, we have debated a series of bills attempting

to increase the penalties on individuals who desecrate a cemetery, gravesites, tombstones, et cetera. We unfortunately have not been successful in having any of that legislation adopted within the Assembly.

This particular bill is one that has passed the Assembly. And as a result, I encourage and have encouraged members to pass Senator Montgomery's companion bill so in fact we get a result, that we not be preoccupied with sponsorship, minority or majority affiliation, but in fact we get things done for people who need to have issues addressed. And that in fact is what this bill does.

I'll be glad to join with Senator Montgomery voting aye. Thank you.

ACTING PRESIDENT GRIFFO: Senator Wright to be recorded in the affirmative.

Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President. I want to also just thank Senator Wright for joining me in support of this legislation. It's a small bill, but it's a big issue.

And both he and I are in agreement that this is a measure that we think makes a lot of sense, that it requires restitution. And I believe that most of the desecration of cemeteries, or a lot of it, is done by juveniles. And we would like to see them have a form of punishment that is very, very appropriate, and that is that it requires them to do restitution and repair the damage that they caused.

So I thank you, Senator Wright, and I thank my colleagues for supporting and certainly I hope that everyone will support this legislation.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Montgomery to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 60. Nays, 0.

ACTING PRESIDENT GRIFFO: The bill is passed.

We will now return to Calendar Number 2144.

THE SECRETARY: In relation to

Calendar Number 2144, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 7076C and substitute it for the identical Senate Bill Number 6415, Third Reading Calendar 2144.

ACTING PRESIDENT GRIFFO: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2144, by Member of the Assembly N. Rivera, Assembly Print Number 7076C, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Padavan, that completes the noncontroversial reading of the calendar.

SENATOR PADAVAN: Thank you,

Mr. President.

May we return to the order of messages from the Governor.

ACTING PRESIDENT GRIFFO: Messages from the Governor.

The Secretary will read.

THE SECRETARY: The Governor returned, without executive approval, Calendar Number 181, Senate Print 3070, by Senator Maziarz, Veto Number 27.

ACTING PRESIDENT GRIFFO: Senator Padavan.

SENATOR PADAVAN: Mr. President, I move that we lay said bill, as vetoed by the Governor, on the desk.

ACTING PRESIDENT GRIFFO: So ordered.

Senator Padavan.

SENATOR PADAVAN: Mr. President, may we return to the order of motions and resolutions.

ACTING PRESIDENT GRIFFO: We will return to motions and resolutions.

SENATOR PADAVAN: I move to take from the table Senate Bill Number 3070, as

vetoed by the Governor.

ACTING PRESIDENT GRIFFO: So ordered.

Senator Padavan.

SENATOR PADAVAN: Mr. President, I now move to override the Governor's veto of said bill.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 181, by Senator Maziarz, Senate Print 3070, an act to amend the Workers' Compensation Law: Veto Message 27.

ACTING PRESIDENT GRIFFO: Senator Padavan, the bill is before the house.

Senators, ought the same become a law notwithstanding the veto of the Governor?

The Secretary will read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The motion to override the Governor's veto is carried.

Senator Padavan.

SENATOR PADAVAN: There will be an immediate meeting of the Rules Committee, Mr. President.

ACTING PRESIDENT GRIFFO: There will be an immediate meeting of the Rules Committee in the Senate Majority Conference Room.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 6:20 p.m.)

(Whereupon, the Senate reconvened at 6:25 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Padavan.

SENATOR PADAVAN: Mr. President, I believe we have a report from the Rules Committee at the desk.

ACTING PRESIDENT GRIFFO: We do have a report from the Rules Committee at the desk.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bill direct to third reading:

Assembly Print 9238, by Member of the Assembly Hoyt, an act to amend Chapter 444 of the Laws of 1997 amending the General Municipal Law.

ACTING PRESIDENT GRIFFO: Senator Padavan.

SENATOR PADAVAN: Move to accept the report of the Rules Committee.

ACTING PRESIDENT GRIFFO: On the motion, all in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The report of the Rules Committee is accepted.

The Secretary will read.

THE SECRETARY: Calendar Number 2120, by Member of the Assembly Hoyt, Assembly Print Number 9238, an act to amend Chapter 444 of the Laws of 1997 amending the General

Municipal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: Senator Alesi, to explain his vote.

SENATOR ALESI: Thank you, Mr. President.

I had some initial concerns that this bill would have a negative effect on some local IDAs, not the least of which would be one in my district, the Village of Fairport.

We've carefully looked at the bill now, and I am satisfied that those concerns about dismantling those local and very worthwhile active IDAs such as the one that I am concerned about no longer has the potential negative impact that I originally spoke about when I expressed my concerns about this bill.

And with that in mind, I think I'm

prepared to move forward in the affirmative in an effort to join my colleagues in improving a system of development that will benefit all of New York State.

I will vote in the affirmative.

ACTING PRESIDENT GRIFFO: Senator Alesi to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 2120, ayes, 59. Nays, 1. Senator Padavan recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

SENATOR PADAVAN: Mr. President, if we could stand at ease just for a couple of seconds, please.

ACTING PRESIDENT GRIFFO: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 6:27 p.m.)

(Whereupon, the Senate reconvened at 6:28 p.m.)

ACTING PRESIDENT GRIFFO: Senator Padavan.

SENATOR PADAVAN: Is there any

housekeeping at the desk?

ACTING PRESIDENT GRIFFO: There is one item.

SENATOR PADAVAN: Calendar Number 2129, please recommit that bill to rules.

ACTING PRESIDENT GRIFFO: So ordered.

There is no other housekeeping at the desk.

SENATOR PADAVAN: Mr. President, there will be an immediate meeting of the Majority in the Majority Conference Room immediately after session.

ACTING PRESIDENT GRIFFO: There will be an immediate meeting of the Majority conference in the Majority Conference Room following session.

SENATOR PADAVAN: There being no further business, I move we adjourn to the call of the Majority Leader, intervening days being legislative days.

ACTING PRESIDENT GRIFFO: On motion, the Senate stands adjourned until the call of the Majority Leader, intervening days being legislative days.

SENATOR DILAN: Mr. President, there will also be a meeting of the Minority conference immediately after session.

ACTING PRESIDENT GRIFFO: There will also be a meeting of the Minority conference in the Minority Conference Room.

The Senate stands adjourned.

(Whereupon, at 6:30 p.m., the Senate adjourned.)